

NAHRGANG & ASSOCIATES, P.C.
BY: MATTHEW R. NAHRGANG, ESQUIRE
ATTY. I.D.: 60051
35 Evansburg Road
Collegeville, PA 19426
(610) 489-3041
E-Mail mnahrgang@verizon.net

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

CHARLES EPPOLITO, JR. and :
ELAINE A. EPPOLITO : 12-12083-MDC
: Chapter 7

**AFFIDAVIT OF CHARLES EPPOLITO, JR. IN LIEU OF LIVE DIRECT
TESTIMONY IN OPPOSITION TO THE US TRUSTEE MOTION TO REOPEN**

Affiant makes the following statements under penalties of perjury:

1. In 2005, having severe difficulty with my left hip, my doctor, Dr. Peter Wang, advised me to obtain a surgical implant in my left hip. In December of that year, I had surgery and such a device was implanted.

2. Following the surgery, I recovered from the same in about a month. After my recovery, not only did I have no difficulties with the implanted device, I felt like a new man with my new left hip. That remained the case until April 20, 2012.

3. In November of 2011, I began to have difficulty with my right knee and pain in my buttocks so I made an appointment with Dr. Wang. He suggested it might be sciatica. I informed Dr. Wang there was no issue whatsoever with my left hip and it

felt normal as it had since I recovered from the surgery in 2005.

4. On March 5, 2012, having substantial debt that I could not repay, and little or no disposable income, I filed a Chapter 7 bankruptcy. Prior to filing, I disclosed to my bankruptcy attorney, Alexander Tuttle, Esquire, all of my assets, debts, income, and expenses. I said nothing about my left hip implant as I had no reason to think such disclosure was required. My left hip felt normal as of March 5, 2012, as it had since I recovered from the surgery in 2005.

5. On April 18, 2012, I and my wife attended the Meeting of Creditors. As of that meeting, my left hip felt normal as it had since I recovered from the surgery in 2005.

6. On April 20, 2012, while shopping at the Shoprite in East Norriton, PA, my left hip suddenly felt extremely strange as if something was loose or falling within the left hip area. Upon my return home, I called Dr. Wang and made an appointment to discuss this new issue with my left hip.

7. On April 25, 2012, I met with Dr Wang at his office and advised of the issue that I had on April 20, 2012. He advised surgery to determine what, if anything, might be wrong with my left hip.

8. After consulting with another orthopedic surgeon with the Rothman Institute, I was scheduled for surgery in July of

2012. The surgery revealed that the implant appeared to have failed and the same was removed.

9. After the surgery in 2012, I consulted with Max Kennerly, Esquire, of the Beasley Law Group who in turn referred me to Asim Badaruzzam, Esquire, of Seeger Weiss in Northern New Jersey for possible legal action against the implant manufacturer. It was my understanding that the manufacturer did business in New Jersey making that state a proper venue for any lawsuit.

10. On July 3, 2014, a Complaint (the Complaint) was filed against Howmedica Osteonics Corporation dba Stryker Orthopaedics (Stryker) in the Superior Court of Bergen County New Jersey. Prior to the filing of the Complaint, I was not given the opportunity to review and approve of the same. Indeed, I sought a copy of the Complaint from Seeger Weiss who did not send the same to me for about a year after the Complaint was filed. At the time I received a copy of the Complaint in or about 2015, I do not recall reading it properly or seeing anything in it that concerned me.

11. After the US Trustee filed the Motion to Reopen this case, my current attorney, Matthew R Nahrgang, Esquire, gave me a copy of 2 pages of the Complaint which contained paragraphs 13 and 14. While I agree that I experienced pain and discomfort after the implant in 2005, I am disturbed that paragraphs 13 and 14 do not contain any specific dates of such pain, discomfort,

and issues with my left hip which did not occur until April 20, 2012.

12. Since the US Trustee Motion to Reopen was filed, I tried to get my medical records pertaining to the 2 most recent times that I met with Dr. Wang in November of 2011 and April 25, 2012. I finally obtained the same on or about March 5, 2020. Since I do not use a computer, have a scanner or fax machine, and did not want to risk a delay from mailing, I asked my wife to fax the pertinent medical records to Mr. Nahrgang from the UPS store. Attached as Exhibit A are true and correct copies of the records I received from Dr. Wang's office.

I, Charles Eppolito, Jr, hereby declare the above statements are true and correct under penalties of perjury.

Respectfully submitted,


Charles Eppolito, Jr